

FAIR LENDING FOR ALL ACT

JUNE 7, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,  
submitted the following

R E P O R T

[To accompany H.R. 166]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 166) to establish an Office of Fair Lending Testing to test for compliance with the Equal Credit Opportunity Act, to strengthen the Equal Credit Opportunity Act and to provide for criminal penalties for violating such Act, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

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The amendments are as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Fair Lending for All Act”.

**SEC. 2. OFFICE OF FAIR LENDING TESTING.**

(a) **ESTABLISHMENT.**—There is established within the Bureau of Consumer Financial Protection an Office of Fair Lending Testing (hereinafter referred to as the “Office”).

(b) **DIRECTOR.**—The head of the Office shall be a Director, who shall—

(1) be appointed to a 5-year term by, and report to, the Director of the Bureau of Consumer Financial Protection;

(2) appoint and fix the compensation of such employees as are necessary to carry out the duties of the Office under this section; and

(3) provide an estimated annual budget to the Director of the Bureau of Consumer Financial Protection.

(c) **CIVIL SERVICE POSITION.**—The position of the Director shall be a career position within the civil service.

(d) **TESTING.**—

(1) **IN GENERAL.**—The Office, in consultation with the Attorney General and the Secretary of Housing and Urban Development, shall conduct testing of compliance with the Equal Credit Opportunity Act by creditors, through the use of individuals who, without any bona fide intent to receive a loan, pose as prospective borrowers for the purpose of gathering information.

(2) **REFERRAL OF VIOLATIONS.**—If, in carrying out the testing described under paragraph (1), the Office believes a person has violated the Equal Credit Opportunity Act, the Office shall refer such violation in writing to the Attorney General for appropriate action.

(e) **REPORT TO CONGRESS.**—Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691f) is amended by adding at the end the following: “In addition, each report of the Bureau shall include an analysis of the testing carried out pursuant to section 2 of the Fair Lending for All Act, and each report of the Bureau and the Attorney General shall include a summary of criminal enforcement actions taken under section 706A.”.

**SEC. 3. PROHIBITION ON CREDIT DISCRIMINATION.**

(a) **IN GENERAL.**—Subsection (a) of section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended to read as follows:

“(a) It shall be unlawful to discriminate against any person, with respect to any aspect of a credit transaction—

“(1) on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), marital status, or age (provided the applicant has the capacity to contract);

“(2) on the basis of the person’s zip code, or census tract;

“(3) because all or part of the person’s income derives from any public assistance program; or

“(4) because the person has in good faith exercised any right under the Consumer Credit Protection Act.”.

(b) **REMOVAL OF CERTAIN REFERENCES TO CREDITORS AND APPLICANTS AND DEFINITION ADDED.**—The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended—

(1) in section 701(b)—

(A) by striking “applicant” each place such term appears and inserting “person”; and

(B) in paragraph (2), by striking “applicant’s” each place such term appears and inserting “person’s”;

(2) in section 702—

(A) by redesignating subsection (g) as subsection (h); and

(B) by inserting after subsection (f) the following:

“(g) The term ‘aggrieved person’ includes any person who—

“(1) claims to have been injured by a discriminatory credit practice; or

“(2) believes that such person will be injured by a discriminatory credit practice.”;

(3) in section 704A—

(A) in subsection (b)(1), by striking “applicant” each place such term appears and inserting “aggrieved person”; and

(B) in subsection (c), by striking “applicant” and inserting “aggrieved person”;

(4) in section 705—

(A) by striking “the applicant” each place such term appears and inserting “persons”; and

(B) in subsection (a)—

- (i) by striking “a creditor to take” and inserting “taking”; and
- (ii) by striking “applicant” and inserting “person”; and
- (5) in section 706—
  - (A) by striking “creditor” each place such term appears and inserting “person”;
  - (B) by striking “creditor’s” each place such term appears and inserting “person’s”;
  - (C) by striking “creditors” each place such term appears and inserting “persons”; and
  - (D) in subsection (f), by striking “applicant” and inserting “aggrieved person”.

**SEC. 4. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EQUAL CREDIT OPPORTUNITY ACT.**

(a) IN GENERAL.—The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended by inserting after section 706 the following:

**“§ 706A. Criminal penalties**

“(a) INDIVIDUAL VIOLATIONS.—Any person who knowingly and willfully violates this title shall be fined not more than \$50,000, or imprisoned not more than 1 year, or both.

“(b) PATTERN OR PRACTICE.—

“(1) IN GENERAL.—Any person who engages in a pattern or practice of knowingly and willfully violating this title shall be fined not more than \$100,000 for each violation of this title, or imprisoned not more than twenty years, or both.

“(2) PERSONAL LIABILITY OF EXECUTIVE OFFICERS AND DIRECTORS OF THE BOARD.—Any executive officer or director of the board of an entity who knowingly and willfully causes the entity to engage in a pattern or practice of knowingly and willfully violating this title (or who directs another agent, senior officer, or director of the entity to commit such a violation or engage in such acts that result in the director or officer being personally unjustly enriched) shall be—

“(A) fined in an amount not to exceed 100 percent of the compensation (including stock options awarded as compensation) received by such officer or director from the entity—

“(i) during the time period in which the violations occurred; or

“(ii) in the one to three year time period preceding the date on which the violations were discovered; and

“(B) imprisoned for not more than 5 years.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended by inserting after the item relating to section 706 the following:

“706A. Criminal penalties.”.

**SEC. 5. REVIEW OF LOAN APPLICATIONS.**

(a) IN GENERAL.—Subtitle C of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5531 et seq.) is amended by adding at the end the following:

**“SEC. 1038. REVIEW OF LOAN APPLICATIONS.**

“(a) IN GENERAL.—The Bureau shall carry out reviews of loan applications and the process of taking loan applications being used by covered persons to ensure such applications and processes do not violate the Equal Credit Opportunity Act or any other Federal consumer financial law.

“(b) PROHIBITION AND ENFORCEMENT.—If the Bureau determines under subsection (a) that any loan application or process of taking a loan application violates the Equal Credit Opportunity Act or any other Federal consumer financial law, the Bureau shall—

“(1) prohibit the covered person from using such application or process; and

“(2) take such enforcement or other actions with respect to the covered person as the Bureau determines appropriate.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Dodd-Frank Wall Street Reform and Consumer Protection Act is amended by inserting after the item relating to section 1037 the following:

“Sec. 1038. Review of loan applications.”.

**SEC. 6. MORTGAGE DATA COLLECTION.**

(a) IN GENERAL.—Section 304(b)(4) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)(4)) is amended by striking “census tract, income level, racial characteristics, age, and gender” and inserting “the applicant or borrower’s zip code, census tract, income level, race, color, religion, national origin, sex, marital status, sexual orientation, gender identity, and age”.

(b) PROTECTION OF PRIVACY INTERESTS.—Section 304(h)(3)(A) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(h)(3)(A)) is amended—

- (1) in clause (i), by striking “and” at the end;
- (2) by redesignating clause (ii) as clause (iii); and
- (3) by inserting after clause (i) the following:
  - “(ii) zip code, census tract, and any other category of data described in subsection (b)(4), as the Bureau determines to be necessary to satisfy the purpose described in paragraph (1)(E), and in a manner consistent with that purpose; and”.

Amend the title so as to read:

A bill to establish an Office of Fair Lending Testing to test for compliance with the Equal Credit Opportunity Act, to strengthen the Equal Credit Opportunity Act, to ensure that persons injured by discriminatory practices, including organizations that have diverted resources to address discrimination and whose mission has been frustrated by illegal acts, can seek relief under such Act and to provide for criminal penalties for violating such Act, and for other purposes.

#### PURPOSE AND SUMMARY

On January 4, 2021, Representative Green introduced H.R. 166, the “Fair Lending for All Act”, which would clarify that the Equal Credit Opportunity Act (ECOA) prohibits credit discrimination on the basis of sexual orientation and gender identity, and further prohibits discrimination on the basis of zip code and census tract as well. The bill also expands the disaggregation of data collected under the Home Mortgage Disclosure Act (HMDA) to account for zip code, census tract, income level, race, color, religion, national origin, sex, marital status, sexual orientation, gender identity, and age. Additionally, the bill would create the Office of Fair Lending Testing in the Consumer Financial Protection Bureau (CFPB) that would be charged with testing creditors’ compliance with ECOA through the use of individuals who pose as prospective borrowers for the purpose of gathering information. The bill would also create criminal penalties under federal law for knowing and willful discrimination by lenders in any credit decision.

#### BACKGROUND AND NEED FOR LEGISLATION

Over the years, the consumer financial marketplace has shown repeated patterns of discriminatory lending practices, leading Congress to pass a number of laws, including ECOA, HMDA, and the Community Reinvestment Act. However, discriminatory lending practices persist. For example, the Center for Investigative Reporting’s Reveal project reviewed 31 million HMDA records and found modern day redlining in 61 metro areas. Redlining is a practice by which banks discriminated against prospective customers based primarily on where they lived, or their racial or ethnic background, rather than creditworthiness. The Reveal report found that when compared to White borrowers, lenders denied African American borrowers at significantly higher rates in 48 cities, Latinos in 25 cities, Asian Americans in 9 cities, and Native Americans in 3 cities.

Moreover, fair lending enforcement declined significantly during the Trump Administration. Between 2014 and 2016, the CFPB and federal banking regulators cited, on average, 243 financial institutions for ECOA violations per year. Between 2017 and 2020, ECOA

citations fell by almost half to 133 institutions cited, on average, for violations per year. Discriminatory trends in the consumer financial marketplace also affect borrowers based on their sexual orientation and gender identity. For example, a recent study examining mortgage data found, “a consistent pattern of higher costs both in closing fees and interest rates for same-sex borrowers.”

Some have tried to argue discrimination based on sexual orientation and gender identity is not protected under ECOA. After the House passed the Equality Act earlier this year, which clarifies that ECOA prohibits discrimination based on sex, sexual orientation, or gender identity, the CFPB issued an interpretative rule confirming that discrimination based on sexual orientation and gender identity are indeed prohibited by ECOA. H.R. 166 would codify this recent CFPB action, while expanding the criteria to include discrimination based on zip code and census tract.

One potential tool to help root out discriminatory practices is fair lending testing. For example, *Newsday’s Long Island Divided* series, an exhaustive, three-year investigation into racial discrimination in home buying on Long Island, deployed actors to conduct fair lending testing, which involved the use of hidden cameras to record meetings with real estate agents. The investigation showed the disparate treatment of homebuyers of color and prompted a year-long investigation by the New York State Senate, which resulted in a report that led to a fair housing legislative package. In 40% of tests, agents engaged in potentially unequal, disparate treatment of homebuyers of color as compared to White homebuyers, and agents at ten of the twelve real estate firms that were tested demonstrated evidence of discriminatory behavior, such as steering non-White home shoppers to certain neighborhoods or requiring homebuyers of color to have prequalification letters from a mortgage lender before allowing them to view houses. Building on these successful fair lending tests, H.R. 166 would require CFPB to establish an Office of Fair Lending Testing to regularly utilize these kinds of tests to identify and combat additional discriminatory practices in the marketplace.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1: Short title*

- This section establishes the short title as the “Fair Lending for All Act”.

##### *Section 2: Office of Fair Lending Testing*

- This section establishes in the Consumer Financial Protection Bureau an Office of Fair Lending Testing and outlines the Director of the Office will be appointed to a 5-year term, will report to the CFPB Director, and will be a civil service position. The Office will consult with the Department of Housing and Urban Development to conduct testing of compliance with the Equal Credit Opportunity Act and refer violations to the Attorney General. CFPB reporting to Congress will include analysis of this testing.

*Section 3: Prohibition on Credit Discrimination*

- This section amends the Equal Credit Opportunity Act to make it unlawful for any creditor to discriminate with respect to credit transactions on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), marital status, or age; on the basis of the person's zip code, or census tract; because all or part of the person's income derives from any public assistance program; or because the person has in good faith exercised any right under the Consumer Credit Protection Act.

*Section 4: Criminal penalties for violations of the Equal Credit Opportunity Act*

- This section amends the Equal Credit Opportunity Act by providing criminal penalties for individual violations and a pattern or practice of violations.

*Section 5: Review of loan applications*

- This section amends the Consumer Financial Protection Act of 2010 to require CFPB to review loan applications and the process of taking loan applications being used by covered persons to ensure such applications and processes do not violate the Equal Credit Opportunity Act or any other Federal consumer financial law. If there is a violation, CFPB will prohibit the application process and take such enforcement action deemed appropriate.

*Section 6: Mortgage data collection*

- This section amends the Home Mortgage Disclosure Act by striking "census tract, income level, racial characteristics, age, and gender" and inserting "the applicant or borrower's zip code, census tract, income level, race, color, religion, national origin, sex, marital status, sexual orientation, gender identity, and age".

## HEARINGS

For the purposes of section 3(c)(6) of House Rule XIII, the Committee on Financial Services' Subcommittee on Oversight & Investigations held a hearing to consider H.R. 166 entitled, "How Invidious Discrimination Works and Hurts: An Examination of Lending Discrimination and Its Long-term Economic Impacts on Borrowers of Color" on February 24, 2021, and a Full Committee hearing entitled "Justice for All: Achieving Racial Equity Through Fair Access to Housing and Financial Services," on March 10, 2021.

## COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on May 12, 2001 and ordered H.R. 166 to be reported favorably to the House with an amendment in the nature of a substitute by a vote of 28 yeas and 24 nays, a quorum being present.

## COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 166: Ordered reported to the House, as amended, with a favorable recommendation by a recorded vote of 28 yeas and 24 nays.

Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>	/	
	Mrs. Maloney	/	
	Ms. Velázquez	/	
	Mr. Sherman	/	
	Mr. Meeks	/	
	Mr. Scott	/	
	Mr. Green	/	
	Mr. Cleaver	/	
	Mr. Perlmutter	/	
	Mr. Himes	/	
	Mr. Foster	/	
	Mrs. Beatty	/	
	Mr. Vargas	/	
	Mr. Gottheimer	/	
	Mr. Gonzalez (TX)	/	
	Mr. Lawson	/	
	Mr. San Nicolas	/	
	Ms. Axne	/	
	Mr. Casten	/	
	Ms. Pressley	/	
	Mr. Torres	/	
	Mr. Lynch	/	
	Ms. Adams	/	
	Ms. Tlaib	/	
	Ms. Dean	/	
	Ms. Ocasio-Cortez	/	
	Mr. Garcia (IL)	/	
	Ms. Garcia (TX)	/	
	Ms. Williams (GA)	/	
	Mr. Auchincloss	/	
30			
	Mr. McHenry, <i>Ranking Member</i>		/
	Mrs. Wagner		/
	Mr. Lucas		/
	Mr. Posey		/
	Mr. Luetkemeyer		/
	Mr. Huizenga		/
	Mr. Stivers		/
	Mr. Barr		/
	Mr. Williams (TX)		/
	Mr. Hill		/
	Mr. Emmer		/
	Mr. Zeldin		/
	Mr. Loudermilk		/
	Mr. Mooney		/
	Mr. Davidson		/
	Mr. Budd		/
	Mr. Kustoff		/
	Mr. Hollingsworth		/
	Mr. Gonzalez (OH)		/
	Mr. Rose		/
	Mr. Steil		/
	Mr. Gooden		/
	Mr. Timmons		/
	Mr. Taylor		/
24			
54			

**Committee on Financial Services**  
Full Committee  
117th Congress (1st Session)

Date: 5/12/2021

Measure: H.R. 166

Amendment No. Final Passage

Offered by: Mr. Green

Agreed To	Yes	No	Prsnt	Wdm
Voico Vote	Ayes		Nays	

Record Vote	FC
/	28-24

28

24



STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF  
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 166 are to clarify, expand, and enhance existing anti-discrimination laws affecting the lending industry.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the following estimate for H.R. 166 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, February 22, 2022.*

Hon. MAXINE WATERS,  
*Chairwoman, Committee on Financial Services,  
House of Representatives, Washington, DC.*

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 166, the Fair Lending for All Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is David Hughes.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

At a Glance			
H.R. 166, Fair Lending for All Act			
As ordered reported by the House Committee on Financial Services on May 12, 2021			
By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	4	14	28
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	4	14	28
Spending Subject to Appropriation (Outlays)	*	4	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold
* = between -\$500,000 and \$500,000.			

The bill would

- Establish the Office of Fair Lending Testing within the Consumer Financial Protection Bureau (CFPB) to assess creditor compliance with the Equal Credit Opportunity Act (ECOA)
- Require the CFPB to issue rules to expand protections for borrowers in credit transactions
- Establish new criminal penalties for violating the ECOA
- Require depository institutions to report additional information about mortgage loans to the CFPB
- Impose a private-sector mandate by prohibiting discrimination in credit transactions on the basis of an applicant's zip code or census tract

Estimated budgetary effects would mainly stem from

- Increases in direct spending to operate the Office of Fair Lending Testing and to conduct rulemakings
- Increases in spending subject to appropriation for enforcement and interagency consultation by the Departments of Justice and Housing and Urban Development

**Bill Summary:** H.R. 166 would establish the Office of Fair Lending Testing within the Consumer Financial Protection Bureau (CFPB) to investigate and assess creditors' compliance with the Equal Credit Opportunity Act (ECOA). The bill also would broaden ECOA protections by prohibiting creditors from discriminating on the basis of a borrower's zip code, census tract, or other demographic characteristics. Violations discovered during those investigations would be referred to the Department of Justice (DOJ) for enforcement, and violators would face criminal penalties. The CFPB and DOJ would be required to report annually to the Congress on investigation results and any resulting criminal prosecutions.

Under current law, depository institutions must disclose to the CFPB annually the number and dollar amount of mortgages originated or purchased in the prior fiscal year. H.R. 166 would require those institutions to itemize that mortgage information based on several borrower characteristics, including zip code, religion, and marital status. The bill would require the CFPB to protect the pri-

vate information of applicants and mortgagors that those institutions disclose.

**Estimated Federal Cost:** The estimated budgetary effect of H.R. 166 is shown in Table 1. The costs of the legislation fall within budget functions 370 (commerce and housing credit), 600 (income security), and 750 (administration of justice).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 166

	By fiscal year, millions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Increases in Direct Spending												
Estimated Budget Authority	4	4	2	2	2	2	3	3	3	3	14	28
Estimated Outlays .....	4	4	2	2	2	2	3	3	3	3	14	28
Decreases in Revenues												
Estimated Revenues .....	*	*	*	*	*	*	*	*	*	*	*	*
Net Increase in the Deficit From Changes in Direct Spending and Revenues												
Effect on the Deficit .....	4	4	2	2	2	2	3	3	3	3	14	28
Increases in Spending Subject to Appropriation												
Estimated Authorization ....	*	1	1	1	1	n.e.	n.e.	n.e.	n.e.	n.e.	4	n.e.
Estimated Outlays .....	*	1	1	1	1	n.e.	n.e.	n.e.	n.e.	n.e.	4	n.e.

n.e. = not estimated; \* = between –\$500,000 and \$500,000.

**Basis of estimate:** For this estimate, CBO assumes that H.R. 166 will be enacted in 2022 and that spending will follow historical patterns for similar programs.

**Direct spending:** CBO estimates that enacting H.R. 166 would increase net direct spending by \$28 million over the 2022–2031 period.

**Consumer Financial Protection Bureau.** Using information from the CFPB, CBO estimates that the bureau would spend \$28 million over the 2022–2031 period to fulfill the bill’s requirements. That amount would support about 36 additional employees at a cost of \$230,000 each over varying time periods. The bureau has permanent authority, not subject to annual appropriation, to spend amounts transferred from the Federal Reserve.

Specifically, CBO estimates that the CFPB would spend \$25 million over the 2022–2031 period for staff and contractors to establish and operate the Office of Fair Lending Testing, to complete rulemakings, and to fulfill additional reporting requirements. The bureau would spend \$2 million over the same period to contract with external testers to investigate discrimination by creditors, and roughly \$500,000 to upgrade its information technology systems to process additional data from depository institutions.

**Federal Financial Institutions Examination Council.** CBO expects that depository institutions would make greater use of a geocoding system that the Federal Financial Institutions Examination Council (FFIEC) provides to help them meet reporting requirements. CBO estimates that the FFIEC would spend an additional \$100,000 each year, reflecting an increase in system use under H.R. 166. That amount would be split evenly among the five agencies that fund it: the CFPB, Federal Deposit Insurance Corporation (FDIC), Federal Reserve, National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC). The operating costs of the CFPB, FDIC, NCUA, and OCC are clas-

sified as direct spending. The NCUA and OCC collect fees from financial institutions to offset their operating costs; those fees are treated as reductions in direct spending. On net, CBO estimates that increased use of the FFIEC geocoding system would increase direct spending by an insignificant amount over the 2022–2031 period.

Revenues: Costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. CBO estimates that upgrades to the FFIEC’s geocoding system would increase costs to the Federal Reserve by less than \$500,000 and thus decrease revenues by the same amount over the 2022–2031 period.

Because H.R. 166 would establish new criminal penalties for violating the ECOA, the federal government could collect additional fines under the bill. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent without further appropriation. CBO expects that any additional revenues and associated direct spending would not be significant because relatively few additional cases would be pursued.

Spending subject to appropriation: Using information from DOJ, CBO estimates that it would cost the department roughly \$3 million over the 2022–2026 period for three attorneys to handle the expanded ECOA caseload under H.R. 166. In addition, CBO estimates that it would cost the Department of Housing and Urban Development about \$1 million over the 2022–2026 period to consult with the CFPB’s new Office of Fair Lending Testing. In total, CBO estimates, implementing H.R. 166 would cost about \$4 million over the 2022–2026; such spending would be subject to the availability of appropriated funds.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown above in Table 1.

Increase in long-term deficits: CBO estimates that enacting H.R. 166 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2032.

Mandates: H.R. 166 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by prohibiting discrimination in credit transactions on the basis of an applicant’s zip code or census tract. CBO estimates that the cost of complying with the mandate would fall below the threshold established in UMRA for private-sector mandates (\$170 million in 2021, adjusted annually for inflation).

CBO has not reviewed a portion of section 3(a) for intergovernmental and private-sector mandates. Section 4 of UMRA excludes from the application of that act any legislative provisions that would establish or enforce statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability. CBO has determined that a portion of section 3(a) falls within that exclusion because it would prohibit discrimination in credit transactions on the basis of sexual orientation or gender identity.

H.R. 166 contains no intergovernmental mandates as defined in UMRA.

Estimate prepared by: Federal Costs: David Hughes (Consumer Financial Protection Bureau) Lindsay Wiley (Department of Justice) Elizabeth Cove Delisle (Department of Housing and Urban Development) Stephen Rabent (Federal Deposit Insurance Corporation, National Credit Union Administration; Office of the Comptroller of the Currency) Nathaniel Frentz (Federal Reserve).

Mandates: Fiona Forrester.

Estimate reviewed by: Justin Humphrey, Chief, Finance, Housing, and Education Cost Estimates Unit; Susan Willie, Chief, Natural and Physical Resources Cost Estimates Unit; Kathleen Fitzgerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

#### COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 166. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*.

#### UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104-4), the Committee adopts as its own the estimate of federal mandates regarding H.R. 166, as amended, prepared by the Director of the Congressional Budget Office.

#### ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104-1, H.R. 166, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

#### EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 166 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 166 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a pro-

gram that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### CHANGES TO EXISTING LAW

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 166, as reported, are shown as follows:

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

### EQUAL CREDIT OPPORTUNITY ACT

## TITLE VII—EQUAL CREDIT OPPORTUNITY

Sec.

*	*	*	*	*	*	*
706A. <i>Criminal penalties.</i>	*	*	*	*	*	*

#### § 701. Prohibited discrimination; reasons for adverse action

[(a) It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction—

[(1) on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract);

[(2) because all or part of the applicant's income derives from any public assistance program; or

[(3) because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.]]

(a) *It shall be unlawful to discriminate against any person, with respect to any aspect of a credit transaction—*

*(1) on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), marital status, or age (provided the applicant has the capacity to contract);*

*(2) on the basis of the person's zip code, or census tract;*

*(3) because all or part of the person's income derives from any public assistance program; or*

*(4) because the person has in good faith exercised any right under the Consumer Credit Protection Act.*

(b) It shall not constitute discrimination for purposes of this title for a creditor—

(1) to make an inquiry of marital status if such inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and not to discriminate in a determination of credit-worthiness;

(2) to make an inquiry of the [applicant's] *person's* age or of whether the [applicant's] *person's* income derives from any public assistance program if such inquiry is for the purpose of determining the amount and probable continuance of income levels, credit history, or other pertinent element of credit-worthiness as provided in regulations of the Board;

(3) to use any empirically derived credit system which considers age if such system is demonstrably and statistically sound in accordance with regulations of the Bureau, except that in the operation of such system the age of an elderly [applicant] *person* may not be assigned a negative factor or value;

(4) to make an inquiry or to consider the age of an elderly [applicant] *person* when the age of such [applicant] *person* is to be used by the creditor in the extension of credit in favor of such [applicant] *person*; or

(5) to make an inquiry under section 704B, in accordance with the requirements of that section.

(c) It is not a violation of this section for a creditor to refuse to extend credit offered pursuant to—

(1) any credit assistance program expressly authorized by law for an economically disadvantaged class of persons;

(2) any credit assistance program administered by a non-profit organization for its members or an economically disadvantaged class of persons; or

(3) any special purpose credit program offered by a profit-making organization to meet special social needs which meets standards prescribed in regulations by the Board;

if such refusal is required by or made pursuant to such program.

(d)(1) Within thirty days (or such longer reasonable time as specified in regulations of the Bureau for any class of credit transaction) after receipt of a completed application for credit, a creditor shall notify the applicant of its action on the application.

(2) Each applicant against whom adverse action is taken shall be entitled to a statement of reasons for such action from the creditor. A creditor satisfies this obligation by—

(A) providing statements of reasons in writing as a matter of course to applicants against whom adverse action is taken; or

(B) giving written notification of adverse action which discloses (i) the applicant's right to a statement of reasons within thirty days after receipt by the creditor of a request made within sixty days after such notification, and (ii) the identity of the person or office from which such statement may be obtained. Such statement may be given orally, if the written notification advises the applicant of his right to have the statement of reasons confirmed in writing on written request.

(3) A statement of reasons meets the requirements of this section only if it contains the specific reasons for the adverse action taken.

(4) Where a creditor has been requested by a third party to make a specific extension of credit directly or indirectly to an applicant, the notification and statement of reasons required by this subsection may be made directly by such creditor, or indirectly through the third party, provided in either case that the identity of the creditor is disclosed.

(5) The requirements of paragraphs (2), (3), or (4) may be satisfied by verbal statements or notifications in the case of any creditor who did not act on more than one hundred and fifty applications during the calendar year preceding the calendar year in which the adverse action is taken, as determined under regulations of the Board.

(6) For purposes of this subsection, the term “adverse action” means a denial or revocation of credit, a change in the terms of an existing credit arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms requested. Such term does not include a refusal to extend additional credit under an existing credit arrangement where the applicant is delinquent or otherwise in default, or where such additional credit would exceed a previously established credit limit.

(e) COPIES FURNISHED TO APPLICANTS.—

(1) IN GENERAL.—Each creditor shall furnish to an applicant a copy of any and all written appraisals and valuations developed in connection with the applicant’s application for a loan that is secured or would have been secured by a first lien on a dwelling promptly upon completion, but in no case later than 3 days prior to the closing of the loan, whether the creditor grants or denies the applicant’s request for credit or the application is incomplete or withdrawn.

(2) WAIVER.—The applicant may waive the 3 day requirement provided for in paragraph (1), except where otherwise required in law.

(3) REIMBURSEMENT.—The applicant may be required to pay a reasonable fee to reimburse the creditor for the cost of the appraisal, except where otherwise required in law.

(4) FREE COPY.—Notwithstanding paragraph (3), the creditor shall provide a copy of each written appraisal or valuation at no additional cost to the applicant.

(5) NOTIFICATION TO APPLICANTS.—At the time of application, the creditor shall notify an applicant in writing of the right to receive a copy of each written appraisal and valuation under this subsection.

(6) VALUATION DEFINED.—For purposes of this subsection, the term “valuation” shall include any estimate of the value of a dwelling developed in connection with a creditor’s decision to provide credit, including those values developed pursuant to a policy of a government sponsored enterprise or by an automated valuation model, a broker price opinion, or other methodology or mechanism.

## **§ 702. Definitions**

(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this title.

(b) The term “applicant” means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

(c) The term “Bureau” means the Bureau of Consumer Financial Protection.

(d) The term “credit” means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its pay-



ment or to purchase property or services and defer payment therefor.

(e) The term “creditor” means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

(f) The term “person” means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(g) *The term “aggrieved person” includes any person who—*

*(1) claims to have been injured by a discriminatory credit practice; or*

*(2) believes that such person will be injured by a discriminatory credit practice.*

[(g)] (h) Any reference to any requirement imposed under this title or any provision thereof includes reference to the regulations of the Bureau under this title or the provision thereof in question.

\* \* \* \* \*

#### **SEC. 704A. INCENTIVES FOR SELF-TESTING AND SELF-CORRECTION.**

(a) **PRIVILEGED INFORMATION.—**

(1) **CONDITIONS FOR PRIVILEGE.**—A report or result of a self-test (as that term is defined by regulations of the Board) shall be considered to be privileged under paragraph (2) if a creditor—

(A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a credit transaction by a creditor, in order to determine the level or effectiveness of compliance with this title by the creditor; and

(B) has identified any possible violation of this title by the creditor and has taken, or is taking, appropriate corrective action to address any such possible violation.

(2) **PRIVILEGED SELF-TEST.**—If a creditor meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test—

(A) shall be privileged; and

(B) may not be obtained or used by any applicant, department, or agency in any—

(i) proceeding or civil action in which one or more violations of this title are alleged; or

(ii) examination or investigation relating to compliance with this title.

(b) **RESULTS OF SELF-TESTING.—**

(1) **IN GENERAL.**—No provision of this section may be construed to prevent an [applicant] *aggrieved person*, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this title is alleged, or in any examination or investigation of compliance with this title if—

(A) the creditor or any person with lawful access to the report or results—

(i) voluntarily releases or discloses all, or any part of, the report or results to the [applicant] *aggrieved*

*person*, department, or agency, or to the general public; or

(ii) refers to or describes the report or results as a defense to charges of violations of this title against the creditor to whom the self-test relates; or

(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this title for the sole purpose of determining an appropriate penalty or remedy.

(2) DISCLOSURE FOR DETERMINATION OF PENALTY OR REMEDY.—Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B)—

(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

(B) may not be used in any other action or proceeding.

(c) ADJUDICATION.—An [applicant] *aggrieved person*, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in—

(1) a court of competent jurisdiction; or

(2) an administrative law proceeding with appropriate jurisdiction.

\* \* \* \* \*

## § 705. Relation to State laws

(a) A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, waiving inchoate rights to property, or assigning earnings, shall not constitute discrimination under this title: *Provided, however*, That this provision shall not be construed to permit [a creditor to take] *taking* sex or marital status into account in connection with the evaluation of creditworthiness of any [applicant] *person*.

(b) Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this title.

(c) Any provision of State law which prohibits the separate extension of consumer credit to each party to a marriage shall not apply in any case where each party to a marriage voluntarily applies for separate credit from the same creditor: *Provided*, That in any case where such a State law is so preempted, each party to the marriage shall be solely responsible for the debt so contracted.

(d) When each party to a marriage separately and voluntarily applies for and obtains separate credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under the laws of any State or of the United States.

(e) Where the same act or omission constitutes a violation of this title and of applicable State law, a person aggrieved by such conduct may bring a legal action to recover monetary damages either under this title or under such State law, but not both. This election of remedies shall not apply to court actions in which the relief sought does not include monetary damages or to administrative actions.

(f) This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with, the laws of any State with respect to credit discrimination, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Bureau is authorized to determine whether such inconsistencies exist. The Bureau may not determine that any State law is inconsistent with any provision of this title if the Bureau determines that such law gives greater protection to [the applicant] *persons*.

(g) The Bureau shall by regulation exempt from the requirements of sections 701 and 702 of this title any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this title or that such law gives greater protection to [the applicant] *persons*, and that there is adequate provision for enforcement. Failure to comply with any requirement of such State law in any transaction so exempted shall constitute a violation of this title for the purposes of section 706.

#### **§ 706. Civil liability**

(a) Any [creditor] *person* who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for any actual damages sustained by such applicant acting either in an individual capacity or as a member of a class.

(b) Any [creditor] *person*, other than a government or governmental subdivision or agency, who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for punitive damages in an amount not greater than \$10,000, in addition to any actual damages provided in subsection (a), except that in the case of a class action the total recovery under this subsection shall not exceed the lesser of \$500,000 or 1 per centum of the net worth of the [creditor] *person*. In determining the amount of such damages in any action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the [creditor] *person*, the resources of the [creditor] *person*, the number of persons adversely affected, and the extent to which the [creditor's] *person's* failure of compliance was intentional.

(c) Upon application by an aggrieved applicant, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this title.

(d) In the case of any successful action under subsection (a), (b), or (c), the costs of the action, together with a reasonable attorney's fee as determined by the court, shall be added to any damages awarded by the court under such subsection.

(e) No provision of this title imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Bureau or in conformity with any interpretation or approval by an official or employee of the Bureau of Consumer Financial Protection duly authorized by the Bureau to issue such interpretations or approvals under such procedures as the Bureau may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded,

or determined by judicial or other authority to be invalid for any reason.

(f) Any action under this section may be brought in the appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction. No such action shall be brought later than 5 years after the date of the occurrence of the violation, except that—

(1) whenever any agency having responsibility for administrative enforcement under section 704 commences an enforcement proceeding within 5 years after the date of the occurrence of the violation,

(2) whenever the Attorney General commences a civil action under this section within 5 years after the date of the occurrence of the violation,

then any **[applicant]** *aggrieved person* who has been a victim of the discrimination which is the subject of such proceeding or civil action may bring an action under this section not later than one year after the commencement of that proceeding or action.

(g) The agencies having responsibility for administrative enforcement under section 704, if unable to obtain compliance with section 701, are authorized to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted. Each agency referred to in paragraphs (1), (2), and (9) of section 704(a) shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more **[creditors]** *persons* has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a). Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more **[creditors]** *persons* has violated section 701(a).

(h) When a matter is referred to the Attorney General pursuant to subsection (g), or whenever he has reason to believe that one or more **[creditors]** *persons* are engaged in a pattern or practice in violation of this title, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including actual and punitive damages and injunctive relief.

(i) No person aggrieved by a violation of this title and by a violation of section 805 of the Civil Rights Act of 1968 shall recover under this title and section 812 of the Civil Rights Act of 1968, if such violation is based on the same transaction.

(j) Nothing in this title shall be construed to prohibit the discovery of a **[creditor's]** *person's* credit granting standards under appropriate discovery procedures in the court or agency in which an action or proceeding is brought.

(k) NOTICE TO HUD OF VIOLATIONS.—Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a)—

(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this title has occurred;

(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act; and

(3) does not refer the matter to the Attorney General pursuant to subsection (g),

the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.

**§ 706A. Criminal penalties**

(a) *INDIVIDUAL VIOLATIONS.*—Any person who knowingly and willfully violates this title shall be fined not more than \$50,000, or imprisoned not more than 1 year, or both.

(b) *PATTERN OR PRACTICE.*—

(1) *IN GENERAL.*—Any person who engages in a pattern or practice of knowingly and willfully violating this title shall be fined not more than \$100,000 for each violation of this title, or imprisoned not more than twenty years, or both.

(2) *PERSONAL LIABILITY OF EXECUTIVE OFFICERS AND DIRECTORS OF THE BOARD.*—Any executive officer or director of the board of an entity who knowingly and willfully causes the entity to engage in a pattern or practice of knowingly and willfully violating this title (or who directs another agent, senior officer, or director of the entity to commit such a violation or engage in such acts that result in the director or officer being personally unjustly enriched) shall be—

(A) fined in an amount not to exceed 100 percent of the compensation (including stock options awarded as compensation) received by such officer or director from the entity—

(i) during the time period in which the violations occurred; or

(ii) in the one to three year time period preceding the date on which the violations were discovered; and

(B) imprisoned for not more than 5 years.

**§ 707. Annual reports to Congress**

Each year, the Bureau and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Bureau and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Bureau shall include its assessment of the extent to which compliance with the requirements of this title is being achieved, and a summary of the enforcement actions taken by each of the agencies assigned administrative enforcement responsibilities under section 704. *In addition, each report of the Bureau shall include an analysis of the testing carried out pursuant to section 2 of the Fair Lending for All Act, and each report of the Bureau and the Attorney General shall include a summary of criminal enforcement actions taken under section 706A.*

\* \* \* \* \*

## DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Dodd-Frank Wall Street Reform and Consumer Protection Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

\* \* \* \* \*

### TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

\* \* \* \* \*

#### Subtitle C—Specific Bureau Authorities

\* \* \* \* \*

*Sec. 1038. Review of loan applications.*

\* \* \* \* \*

## TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

\* \* \* \* \*

### Subtitle C—Specific Bureau Authorities

\* \* \* \* \*

#### **SEC. 1038. REVIEW OF LOAN APPLICATIONS.**

(a) *IN GENERAL.*—The Bureau shall carry out reviews of loan applications and the process of taking loan applications being used by covered persons to ensure such applications and processes do not violate the Equal Credit Opportunity Act or any other Federal consumer financial law.

(b) *PROHIBITION AND ENFORCEMENT.*—If the Bureau determines under subsection (a) that any loan application or process of taking a loan application violates the Equal Credit Opportunity Act or any other Federal consumer financial law, the Bureau shall—

(1) prohibit the covered person from using such application or process; and

(2) take such enforcement or other actions with respect to the covered person as the Bureau determines appropriate.

\* \* \* \* \*

## HOME MORTGAGE DISCLOSURE ACT OF 1975

### TITLE III—HOME MORTGAGE DISCLOSURE

\* \* \* \* \*

#### MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE

**SEC. 304.** (a)(1) Each depository institution which has a home office or branch office located within a primary metropolitan statis-

tical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas, as defined by the Department of Commerce shall compile and make available, in accordance with regulations of the Board, to the public for inspection and copying at the home office, and at least one branch office within each primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas in which the depository institution has an office the number and total dollar amount of mortgage loans which were (A) originated (or for which the institution received completed applications), or (B) purchased by that institution during each fiscal year (beginning with the last full fiscal year of that institution which immediately preceded the effective date of this title).

(2) The information required to be maintained and made available under paragraph (1) shall also be itemized in order to clearly and conspicuously disclose the following:

(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts for mortgage loans secured by property located within any county with a population of more than 30,000, within that primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas, otherwise, by county, for mortgage loans secured by property located within any other county within that standard metropolitan statistical area.

(B) The number and dollar amount for each item referred to in paragraph (1) for all such mortgage loans which are secured by property located outside that primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas.

For the purpose of this paragraph, a depository institution which maintains offices in more than one primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas shall be required to make the information required by this paragraph available at any such office only to the extent that such information relates to mortgage loans which were originated or purchased (or for which completed applications were received) by an office of that depository institution located in the primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas in which the office making such information available is located. For purposes of this paragraph, other lending institutions shall be deemed to have a home office or branch office within a primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas if such institutions have originated or purchased or received completed applications for at least 5 mortgage loans in such area in the preceding calendar year.

(b) Any item of information relating to mortgage loans required to be maintained under subsection (a) shall be further itemized in order to disclose for each such item—

(1) the number and dollar amount of mortgage loans which are insured under title II of the National Housing Act or under title V of the Housing Act of 1949 or which are guaranteed under chapter 37 of title 38, United States Code;

(2) the number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage, intend to reside in the property securing the mortgage loan;

(3) the number and dollar amount of home improvement loans;

(4) the number and dollar amount of mortgage loans and completed applications involving mortgagors or mortgage applicants grouped according to [census tract, income level, racial characteristics, age, and gender] *the applicant or borrower's zip code, census tract, income level, race, color, religion, national origin, sex, marital status, sexual orientation, gender identity, and age*;

(5) the number and dollar amount of mortgage loans grouped according to measurements of—

(A) the total points and fees payable at origination in connection with the mortgage as determined by the Bureau, taking into account 15 U.S.C. 1602(aa)(4);

(B) the difference between the annual percentage rate associated with the loan and a benchmark rate or rates for all loans;

(C) the term in months of any prepayment penalty or other fee or charge payable on repayment of some portion of principal or the entire principal in advance of scheduled payments; and

(D) such other information as the Bureau may require; and

(6) the number and dollar amount of mortgage loans and completed applications grouped according to measurements of—

(A) the value of the real property pledged or proposed to be pledged as collateral;

(B) the actual or proposed term in months of any introductory period after which the rate of interest may change;

(C) the presence of contractual terms or proposed contractual terms that would allow the mortgagor or applicant to make payments other than fully amortizing payments during any portion of the loan term;

(D) the actual or proposed term in months of the mortgage loan;

(E) the channel through which application was made, including retail, broker, and other relevant categories;

(F) as the Bureau may determine to be appropriate, a unique identifier that identifies the loan originator as set forth in section 1503 of the S.A.F.E. Mortgage Licensing Act of 2008;

(G) as the Bureau may determine to be appropriate, a universal loan identifier;



(H) as the Bureau may determine to be appropriate, the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral;

(I) the credit score of mortgage applicants and mortgagors, in such form as the Bureau may prescribe; and

(J) such other information as the Bureau may require.

(c) Any information required to be compiled and made available under this section, other than loan application register information under subsection (j), shall be maintained and made available for a period of five years after the close of the first year during which such information is required to be maintained and made available.

(d) Notwithstanding the provisions of subsection (a)(1), data required to be disclosed under this section for 1980 and thereafter shall be disclosed for each calendar year. Any depository institution which is required to make disclosures under this section but which has been making disclosures on some basis other than a calendar year basis shall make available a separate disclosure statement containing data for any period prior to calendar year 1980 which is not covered by the last full year report prior to the 1980 calendar year report.

(e) Subject to subsection (h), the Bureau shall prescribe a standard format for the disclosures required under this section.

(f) The Federal Financial Institutions Examination Council, in consultation with the Secretary, shall implement a system to facilitate access to data required to be disclosed under this section. Such system shall include arrangements for a central depository of data in each primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas. Disclosure statements shall be made available to the public for inspection and copying at such central depository of data for all depository institutions which are required to disclose information under this section (or which are exempted pursuant to section 306(b)) and which have a home office or branch office within such primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas.

(g) The requirements of subsections (a) and (b) shall not apply with respect to mortgage loans that are—

(1) made (or for which completed applications are received) by any mortgage banking subsidiary of a bank holding company or savings and loan holding company or by any savings and loan service corporation that originates or purchases mortgage loans; and

(2) approved (or for which completed applications are received) by the Secretary for insurance under title I or II of the National Housing Act.

(h) SUBMISSION TO AGENCIES.—

(1) IN GENERAL.—The data required to be disclosed under subsection (b) shall be submitted to the Bureau or to the appropriate agency for the institution reporting under this title, in accordance with rules prescribed by the Bureau. Notwithstanding the requirement of subsection (a)(2)(A) for disclosure by census tract, the Bureau, in consultation with other appro-

appropriate agencies described in paragraph (2) and, after notice and comment, shall develop regulations that—

- (A) prescribe the format for such disclosures, the method for submission of the data to the appropriate agency, and the procedures for disclosing the information to the public;
- (B) require the collection of data required to be disclosed under subsection (b) with respect to loans sold by each institution reporting under this title;
- (C) require disclosure of the class of the purchaser of such loans;
- (D) permit any reporting institution to submit in writing to the Bureau or to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans; and
- (E) modify or require modification of itemized information, for the purpose of protecting the privacy interests of the mortgage applicants or mortgagors, that is or will be available to the public.

(2) OTHER APPROPRIATE AGENCIES.—The appropriate agencies described in this paragraph are—

- (A) the appropriate Federal banking agencies, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), with respect to the entities that are subject to the jurisdiction of each such agency, respectively;
- (B) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured State branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;
- (C) the National Credit Union Administration Board with respect to credit unions; and
- (D) the Secretary of Housing and Urban Development with respect to other lending institutions not regulated by the agencies referred to in subparagraph (A) or (B).

(3) RULES FOR MODIFICATIONS UNDER PARAGRAPH (1).—

(A) APPLICATION.—A modification under paragraph (1)(E) shall apply to information concerning—

(i) credit score data described in subsection (b)(6)(I), in a manner that is consistent with the purpose described in paragraph (1)(E); **and**

(ii) *zip code, census tract, and any other category of data described in subsection (b)(4), as the Bureau determines to be necessary to satisfy the purpose described in paragraph (1)(E), and in a manner consistent with that purpose; and*

**[(ii)]** (iii) age or any other category of data described in paragraph (5) or (6) of subsection (b), as the Bureau determines to be necessary to satisfy the purpose described in paragraph (1)(E), and in a manner consistent with that purpose.

(B) STANDARDS.—The Bureau shall prescribe standards for any modification under paragraph (1)(E) to effectuate the purposes of this title, in light of the privacy interests

of mortgage applicants or mortgagors. Where necessary to protect the privacy interests of mortgage applicants or mortgagors, the Bureau shall provide for the disclosure of information described in subparagraph (A) in aggregate or other reasonably modified form, in order to effectuate the purposes of this title.

(i) EXEMPTIONS.—

(1) CLOSED-END MORTGAGE LOANS.—With respect to an insured depository institution or insured credit union, the requirements of paragraphs (5) and (6) of subsection (b) shall not apply with respect to closed-end mortgage loans if the insured depository institution or insured credit union originated fewer than 500 closed-end mortgage loans in each of the 2 preceding calendar years.

(2) OPEN-END LINES OF CREDIT.—With respect to an insured depository institution or insured credit union, the requirements of paragraphs (5) and (6) of subsection (b) shall not apply with respect to open-end lines of credit if the insured depository institution or insured credit union originated fewer than 500 open-end lines of credit in each of the 2 preceding calendar years.

(3) REQUIRED COMPLIANCE.—Notwithstanding paragraphs (1) and (2), an insured depository institution shall comply with paragraphs (5) and (6) of subsection (b) if the insured depository institution has received a rating of “needs to improve record of meeting community credit needs” during each of its 2 most recent examinations or a rating of “substantial non-compliance in meeting community credit needs” on its most recent examination under section 807(b)(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(2)).

(3) EXEMPTION FROM CERTAIN DISCLOSURE REQUIREMENTS.—The requirements of subsections (b)(4), (b)(5), and (b)(6) shall not apply with respect to any depository institution described in section 303(3)(A) which has total assets, as of the most recent full fiscal year of such institution, of \$30,000,000 or less.

(j) LOAN APPLICATION REGISTER INFORMATION.—

(1) IN GENERAL.—In addition to the information required to be disclosed under subsections (a) and (b), any depository institution which is required to make disclosures under this section shall make available to the public, upon request, loan application register information (as defined by the Bureau by regulation) in the form required under regulations prescribed by the Board.

(2) FORMAT OF DISCLOSURE.—

(A) UNEDITED FORMAT.—Subject to subparagraph (B), the loan application register information described in paragraph (1) may be disclosed by a depository institution without editing or compilation and in such formats as the Bureau may require.

(B) PROTECTION OF APPLICANT’S PRIVACY INTEREST.—The Bureau shall require, by regulation, such deletions as the Bureau may determine to be appropriate to protect—

(i) any privacy interest of any applicant, including the deletion of the applicant’s name and identification number, the date of the application, and the date of

any determination by the institution with respect to such application; and

(ii) a depository institution from liability under any Federal or State privacy law.

(C) CENSUS TRACT FORMAT ENCOURAGED.—It is the sense of the Congress that a depository institution should provide loan register information under this section in a format based on the census tract in which the property is located.

(3) CHANGE OF FORM NOT REQUIRED.—A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in such formats as the Bureau may require

(4) REASONABLE CHARGE FOR INFORMATION.—Any depository institution which provides information under this subsection may impose a reasonable fee for any cost incurred in reproducing such information.

(5) TIME OF DISCLOSURE.—The disclosure of the loan application register information described in paragraph (1) for any year pursuant to a request under paragraph (1) shall be made—

(A) in the case of a request made on or before March 1 of the succeeding year, before April 1 of the succeeding year; and

(B) in the case of a request made after March 1 of the succeeding year, before the end of the 30-day period beginning on the date the request is made.

(6) RETENTION OF INFORMATION.—Notwithstanding subsection (c), the loan application register information described in paragraph (1) for any year shall be maintained and made available, upon request, for 3 years after the close of the 1st year during which such information is required to be maintained and made available.

(7) MINIMIZING COMPLIANCE COSTS.—In prescribing regulations under this subsection, the Bureau shall make every effort to minimize the costs incurred by a depository institution in complying with this subsection and such regulations.

(k) DISCLOSURE OF STATEMENTS BY DEPOSITORY INSTITUTIONS.—

(1) IN GENERAL.—In accordance with procedures established by the Bureau pursuant to this section, any depository institution required to make disclosures under this section—

(A) shall make a disclosure statement available, upon request, to the public no later than 3 business days after the institution receives the statement from the Federal Financial Institutions Examination Council; and

(B) may make such statement available on a floppy disc which may be used with a personal computer or in any other media which is not prohibited under regulations prescribed by the Board.

(2) NOTICE THAT DATA IS SUBJECT TO CORRECTION AFTER FINAL REVIEW.—Any disclosure statement provided pursuant to paragraph (1) shall be accompanied by a clear and conspicuous notice that the statement is subject to final review and revision, if necessary.

(3) REASONABLE CHARGE FOR INFORMATION.—Any depository institution which provides a disclosure statement pursuant to paragraph (1) may impose a reasonable fee for any cost incurred in providing or reproducing such statement.

(l) PROMPT DISCLOSURES.—

(1) IN GENERAL.—Any disclosure of information pursuant to this section or section 310 shall be made as promptly as possible.

(2) MAXIMUM DISCLOSURE PERIOD.—

(A) 6- AND 9-MONTH MAXIMUM PERIODS.—Except as provided in subsections (j)(5) and (k)(1) and regulations prescribed by the Bureau and subject to subparagraph (B), any information required to be disclosed for any year beginning after December 31, 1992, under—

(i) this section shall be made available to the public before September 1 of the succeeding year; and

(ii) section 310 shall be made available to the public before December 1 of the succeeding year.

(B) SHORTER PERIODS ENCOURAGED AFTER 1994.—With respect to disclosures of information under this section or section 310 for any year beginning after December 31, 1993, every effort shall be made—

(i) to make information disclosed under this section available to the public before July 1 of the succeeding year; and

(ii) to make information required to be disclosed under section 310 available to the public before September 1 of the succeeding year.

(3) IMPROVED PROCEDURE.—The Federal Financial Institutions Examination Council shall make such changes in the system established pursuant to subsection (f) as may be necessary to carry out the requirements of this subsection.

(m) OPPORTUNITY TO REDUCE COMPLIANCE BURDEN.—

(1) IN GENERAL.—

(A) SATISFACTION OF PUBLIC AVAILABILITY REQUIREMENTS.—A depository institution shall be deemed to have satisfied the public availability requirements of subsection (a) if the institution compiles the information required under that subsection at the home office of the institution and provides notice at the branch locations specified in subsection (a) that such information is available from the home office of the institution upon written request.

(B) PROVISION OF INFORMATION UPON REQUEST.—Not later than 15 days after the receipt of a written request for any information required to be compiled under subsection (a), the home office of the depository institution receiving the request shall provide the information pertinent to the location of the branch in question to the person requesting the information.

(2) FORM OF INFORMATION.—In complying with paragraph (1), a depository institution shall provide the person requesting the information with a copy of the information requested in such formats as the Bureau may require.

(n) TIMING OF CERTAIN DISCLOSURES.—The data required to be disclosed under subsection (b) shall be submitted to the Bureau or

to the appropriate agency for any institution reporting under this title, in accordance with regulations prescribed by the Bureau. Institutions shall not be required to report new data under paragraph (5) or (6) of subsection (b) before the first January 1 that occurs after the end of the 9-month period beginning on the date on which regulations are issued by the Bureau in final form with respect to such disclosures.

(o) DEFINITIONS.—In this section—

(1) the term “insured credit union” has the meaning given the term in section 101 of the Federal Credit Union Act (12 U.S.C. 1752); and

(2) the term “insured depository institution” has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

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